

### REMARKS

This application has been carefully reviewed in light of the final Office Action dated August 26, 2008. Claims 1, 3 to 5, 11 to 15, 18 to 21, 23, 26 to 28, 34 to 38, 41 to 54 and 56 are in the application, of which Claims 1, 23 and 56 are in independent form. Reconsideration and further examination are respectfully requested.

As a formal matter, Applicants have not yet received an indication that the Information Disclosure Statements dated March 10, 2006 and January 29, 2008 have been considered. For the reasons set forth in the Amendment filed on July 11, 2008, Applicants submit that the information cited in the aforementioned Information Disclosure Statements was properly submitted. Nevertheless, in the interest of advancing prosecution, and in view of the fact that a Request for Continued Examination is being filed concurrently herewith, a new Information Disclosure Statement, which includes the information submitted with the aforementioned Information Disclosure Statements, is also being filed concurrently herewith. Consideration of this new Information Disclosure Statement is respectfully requested.

The Specification was objected to, and Claims 23, 26 to 28, 34 to 38, 41 to 44 and 50 to 54 were rejected under 35 U.S.C. § 101. Specifically, at page 3, the Office Action states that in order to overcome the objection, the Specification should be amended to include a non-exhaustive statement of what the phrase “computer readable storage medium” includes, in order to verify that this term could not be taken in the context of non-statutory subject matter. Moreover, at page 5, the Office Action alleges that the claims and the Specification fail to disclose whether the claimed “computer readable storage medium” indicates any hardware. Applicants continue to believe that both the rejection and the

objection are incorrect. Nevertheless, and in the interest of resolving this issue, Applicants have amended the Specification to include a non-exhaustive definition of the term “computer readable storage medium”. Accordingly, reconsideration and withdrawal of the objection to the Specification and the rejection under 35 U.S.C. § 101 are respectfully requested.

Claims 1, 3 to 5, 11, 13, 15, 18, 20, 21, 23, 26 to 28, 34, 36, 38, 41, 43 to 54 and 56 were rejected under 35 U.S.C. § 103(a) over U.S. Patent No. 6,687,878 (Eintracht) in view of U.S. Patent No. 5,821,931 (Berquist) in view of U.S. Patent Application Publication No. 2002/0054059 (Schneiderman) in view of U.S. Patent No. 6,597,800 (Murray) in view of U.S. Patent No. 5,469,536 (Blank) and further in view of U.S. Patent No. 6,411,313 (Conlon). Claims 12 and 35 were rejected under § 103(a) over Eintracht in view of Berquist in view of Schneiderman in view of Murray in view of Blank in view of Conlon and further in view of U.S. Patent No. 6,021,221 (Takaha). Claims 14 and 37 were rejected under § 103(a) over Eintracht in view of Berquist in view of Schneiderman in view of Murray in view of Blank in view of Conlon and further in view of U.S. Patent No. 6,616,701 (Doyle). Claims 19 and 42 were rejected under § 103(a) over Eintracht in view of Berquist in view of Schneiderman in view of Murray in view of Blank in view of Conlon and further in view of U.S. Patent No. 6,976,229 (Balabanovic). Reconsideration and withdrawal of the rejections are respectfully requested.

#### Claims 1 and 23

Claims 1 and 23 generally concern annotating an image by adjusting an automatically placed bounded region on the image, and by dragging icons associated with

metadata labels onto the adjusted bounded region. More specifically, a plurality of metadata labels is extracted from an existing database of metadata labels to form a list of metadata labels. Each of the metadata labels in the list is associated with at least one of a plurality of icons, and the plurality of icons are displayed. Each of the icons is labeled with one or more of the metadata labels with which the icon was associated. The image is displayed adjacent to the displayed plurality of labeled icons, wherein the metadata labels are generated prior to having knowledge of the content of the image. A subject within the image is detected, using an image detection method, to form an automatically placed bounded region within the image. The automatically placed bounded region substantially surrounds the detected subject within the image. The automatically placed bounded region is adjusted by re-sizing, moving, or erasing the bounded region based on user input. Selection of at least one of the displayed plurality of labeled icons is detected, and the selected icon is dragged to the image, such that the adjusted bounded region is changed upon the selected icon being dragged over the adjusted bounded region, in order to emphasize the adjusted bounded region. The selected icon is dropped within the adjusted bounded region, which corresponds to a selected subject within the image. The one or more metadata labels associated with the selected icon are linked with a description of the location of the selected subject within the image, and the linked one or more metadata labels and the description are stored as an annotation of the image. A default icon of the linked one or more metadata labels is replaced with an image of the selected subject, wherein the image of the selected subject is extracted based on the adjusted bounded region.

Applicants submit that the applied references, alone or in any permissible combination, are not seen to disclose or to suggest at least the foregoing arrangement, and in particular are not seen to disclose or to suggest at least the features of (i) adjusting the automatically placed bounded region by re-sizing, moving or erasing the bounded region based on user input, and (ii) replacing a default icon of the linked one or more metadata labels with an image of the selected subject, the image of the selected subject being extracted based on the adjusted bounded region.

Murray is seen to disclose a process for automatic recognition of a target object from live infrared or visible light image data in real time. Murray's automatic target recognition process is intended to recognize objects in a field of view, such as in a surveillance role to identify the presence of people or vehicles in a high security area. Automatic target recognition processing may also be employed for pattern recognition, such as to identify handwriting, fingerprints, or printed text. Murray's automatic target recognition process involves subjecting an image to primary segmentation in which the image is divided up into one or more primary homogeneous regions, each approximating to an object of interest, and enclosing the segmented pixels forming a primary homogenous region in a rectangular bounding box.

While Murray might be seen by some to disclose automatic recognition of a target object from live data in real time, Murray is believed to be silent on adjusting the automatically placed bounded region by re-sizing, moving or erasing the bounded region based on user input. In fact, because Murray is intended to provide improved accuracy of automatic target object recognition performed on live data in real time, Murray is believed to teach away from adjusting the automatically placed bounded region by re-sizing, moving

or erasing the bounded region based on user input. Specifically, Murray's apparatus and process are intended to provide improved accuracy of target object recognition and identification for surveillance in a high security area, or for pattern recognition to identify handwriting, finger prints, or printed text. Since automatic recognition of target objects to identify the presence of people or vehicles in a high security area, and handwriting, finger print, or printed text pattern recognition are believed to be typically performed without a response to user input, Murray is believed to teach away from adjusting the automatically placed bounded region by re-sizing, moving or erasing the bounded region based on user input.

Moreover, Murray is believed to be silent on replacing a default icon of the linked one or more metadata labels with an image of the selected subject, the image of the selected subject being extracted based on the adjusted bounded region.

Blank is seen to disclose a method for editing digital images in three dimensions. Blank's method involves storing a digital image of an object and a background, as well as at least one additional background image. Based upon the difference between the hues of the edge of the object and the surrounding background and a predetermined hue difference, the computer locates the edge of the object, and removes portions of the image (i.e., the background) that are outside the edge. Then, the object can be combined with a preselected one of the other background images so as to form a composite image. Components of the preselected background image are assigned relative positions in the X-Y plane, and are also assigned a value defining their location in one of a plurality of layers which form the Z dimension of the image. The object to be combined

with the background is also assigned a value defining its location in at least one of those layers.

However, Blank is believed to be silent on detecting a subject within an image using an image detection method, much less automatically placing bounded regions within the image that substantially surround a detected subject within the image. Moreover, Blank is believed to be silent on adjusting the automatically placed bounded region by re-sizing, moving or erasing the bounded region based on user input. Furthermore, Blank is believed to be silent on replacing a default icon of the linked one or more metadata labels with an image of the selected subject, the image of the selected subject being extracted based on the adjusted bounded region.

Eintracht, Berquist, Schneiderman and Conlon has been studied, but they are not seen to teach anything that, when combined with Murray and Blank, would overcome the deficiencies of Murray and Blank as described above.

Applicants submit that it would not have been obvious to one of ordinary skill in the art at the time of Applicants' invention to combine the digital image editing methods of Blank with the automatic target recognition of Murray, in part, because the disclosure of Murray is believed to teach away from adjusting the automatically placed bounded region by re-sizing, moving or erasing the bounded region based on user input, as described above.

Moreover, it is noted that the current rejection of Claims 1 and 23 relies on a six-way combination of references, namely, Eintracht, Berquist, Schneiderman, Murray, Blank and Conlon. Applicants respectfully submit that the USPTO has not articulated an adequate rationale to explain why those of ordinary skill would have been prompted to

identify particular elements in each reference, and then to combine these elements in the way that the Office Action does. See *KSR International*:

“[A] patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. Although common sense directs one to look with care at a patent application that claims as innovation the combination of two known devices according to their established functions, it can be important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed new invention does. [I]nventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known.” *KSR International Co. v. Teleflex Inc.*, 82 USPQ2d 1385, 1390 (2007).

Here, the Office Action identified alleged “benefits” of various combinations without also identifying that those of ordinary skill would have recognized those benefits at the time of the invention, and would have some apparent reason for wanting the benefit of one reference in the context of another. It is therefore respectfully submitted that the rejection of Claims 1 and 23 should be withdrawn for failure to establish the legal predicate required for an obviousness rejection.

Moreover, and as demonstrated above, it is believed that there are technological deficiencies in the rejection. Specifically, Murray and Blank, alone or in any permissible combination of applied references, are not believed to disclose or to suggest at least the features of (i) adjusting the automatically placed bounded region by re-sizing, moving or erasing the bounded region based on user input, and (ii) replacing a default icon of the linked one or more metadata labels with an image of the selected subject, the image of the selected subject being extracted based on the adjusted bounded region.

In view of the foregoing amendments and remarks, independent Claims 1 and 23, as well as the claims dependent therefrom, are believed to recite subject matter that would not have been obvious from the applied art, and are therefore believed to be in condition for allowance.

#### Claim 56

Claim 56 generally concerns annotating an image by adjusting an automatically placed bounded region on the image, and by dragging icons associated with metadata labels onto the adjusted bounded region. More specifically, a plurality of metadata labels is extracted from an existing database of metadata labels to form a list of metadata labels, and a representation of each of the metadata labels in the list is displayed. The image is displayed adjacent to the displayed representations of metadata, wherein the metadata labels are generated prior to having knowledge of the content of the image. A subject is detected within the image, using an image detection method, to form an automatically placed bounded region within the image. The automatically placed bounded region substantially surrounds the detected subject within the image. The automatically placed bounded region is adjusted by re-sizing, moving or erasing the bounded region based on user input. Selection of at least one of the displayed representations of metadata labels is detected, and the selected representation is dragged to the image, such that the adjusted bounded region is changed upon the selected representation being dragged over the adjusted bounded region, in order to emphasize the adjusted bounded region. The selected representation is dropped within the adjusted bounded region, which corresponds to a selected subject within the image. The one or more metadata labels associated with



the selected representation are linked with a description of the location of the selected subject within the image, and the linked one or more metadata labels and the description are stored as an annotation of the image. A default icon of the linked one or more metadata labels is replaced with an image of the selected subject, the image of the selected subject being extracted based on the adjusted bounded region.

For the reasons discussed above with respect to Claims 1 and 23, Applicants submit that the applied references, alone or in any permissible combination, are not seen to disclose or to suggest at least the foregoing arrangement, and in particular are not seen to disclose or to suggest at least the features of (i) adjusting the automatically placed bounded region by re-sizing, moving or erasing the bounded region based on user input, and (ii) replacing a default icon of the linked one or more metadata labels with an image of the selected subject, the image of the selected subject being extracted based on the adjusted bounded region.

In view of the foregoing amendments and remarks, independent Claim 56 is believed to recite subject matter that would not have been obvious from the applied art, and is therefore believed to be in condition for allowance.

### CONCLUSION

No other matters being raised, it is believed that the entire application is fully in condition for allowance, and such action is courteously solicited.

No claim fees are believed due. However, should it be determined that additional claim fees are required under 37 C.F.R. 1.16 or 1.17, the Director is hereby authorized to charge such fees to Deposit Account 06-1205.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,

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